

REMARKS

After the foregoing amendments, claims 5 and 11 are currently pending in this application, claims 1 – 4 having been canceled without prejudice. Applicant thanks the Examiner for the recommendation to recite “consisting” language to provide further clarification. Applicant has amended claim 11 accordingly to more particularly point out and distinctly claim the invention. Support for this amendment can be found in paragraphs [0042] – [0044] and as is illustrated specifically in Fig. 9A of the originally-filed application. No new matter has been introduced into the application by these amendments.

Claims 6 – 10 were previously withdrawn from consideration pursuant to a Restriction Requirement. Applicant expressly reserves the right to file future applications directed to claims 6 – 10 without prejudice.

35 USC § 103

Claims 5 and 11 stand rejected under 35 USC § 103(a) as unpatentable over U.S. Patent No. 7,101,715 to Devlin in view of U.S. Patent No. 7,270,784 to Vuong et al. Applicants respectfully traverse the rejection of these claims and respectfully submit that these claims are patentable over the art of record for at least the reasons set forth below.

Independent claim 11, as amended, recites features that are neither disclosed nor suggested by Devlin or Vuong. For the sake of clarity, Applicant has included bolded server legends and assay types consistent with the descriptions in the originally-filed specification.

A method for increasing the throughput of an analyzer . . . the method comprising the steps of . . . providing first **28**, second **27**, and third **26** sources of reagents . . . partitioning the different assays to be conducted by the analyzer into . . . a first sub-group **A** of assays **consisting only of** those assays having the highest frequency of being conducted by the analyzer; . . . a third sub-group **C** of assays **consisting only of** those assays having the lowest frequency of being conducted by the analyzer; and . . . a second sub-group **B** of assays **consisting only of** those assays not contained in either the first or third sub-groups of assays, wherein the third source **26** of reagents contains reagents needed for conducting the first **A**, second **B**, and third **C** sub-groups of assays, the second source **27** of reagents **consists only of** those reagents needed for conducting the first **A** and second **B** sub-groups of assays, and the first source **28** of reagents **consists only of** those reagents needed for conducting the first sub-group **A** of assays.

In contrast, and as noted in section 6 of the previous Office Action dated November 11, 2009, Devlin fails to disclose a third reagent source. .The Examiner finds multiple reagent sources 140, 145, 150, and 155 in Vuong.

Applicant traverses this rejection on the basis that adding additional reagent sources of the same type (as Vuong teaches) into Devlin's dual analyzers 10 and 11 only adds more reagents to perform Group A and Group B assays into upstream analyzer 10 and more reagents to perform Group A and Group C assays into downstream analyzer 11. Accordingly, Applicant respectfully submits that claim 11 should be allowed. Applicant further respectfully submits that because claim 5 is dependent upon allowable claim 11 (as amended), claim 5 should also be allowed at least as dependent upon an allowable base claim. Withdrawal of the 35 U.S.C. § 103(a) rejections of claims 5 and 11 is respectfully requested.

Conclusion

If the Examiner believes that any additional minor formal matters need to be addressed in order to place this application in condition for allowance, or that a telephone interview will help to materially advance the prosecution of this application, the Examiner is invited to contact the undersigned at the Examiner's convenience.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the present application, including claims 5 and 11, is in condition for allowance, and a Notice to that effect is respectfully requested.

Respectfully submitted,

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